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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,222	07/22/2003	Scott A. Melton	2206.68154	6960

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EXAMINER

PAYER, HWEI SIU CHOU

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 02/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,222

Applicant(s)

MELTON ET AL.

Examiner

Hwei-Siu C. Payer

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 and 15 is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-13, 16-19, 21-23, 26 and 27 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 20, 24 and 25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Detailed Action

Claims Objection

Claims 6 and 20 are objected to because of the following informalities:

(1) In claims 6 and 20, line 2, "the user" should read --a user--.

Appropriate correction is required.

Claims Rejection - 35 U.S.C. 112, second paragraph

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 3, 12, 13, 17, 26 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(1) The scope of claim 2 is confusing. Exactly what structure of the clipper holding apparatus is being claimed therein? It is not understood how the substrate being one of a drawer and a belt further limits the structure of the clipper holding apparatus.

(2) The scope of claim 3 is confusing. Exactly what structure of the clipper holding apparatus is being claimed therein? It is not understood how the clipper having at least one of an open and a closed loop further limits the structure of the clipper holding apparatus.

(3) In claims 12 and 26, "said three hooks" and "the first wall" have no antecedent basis.

(4) In claim 13, "each said hook" has no clear antecedent basis. It appears claim 13 should depend from claim 12.

(5) The scope of claim 17 is confusing. It is not understood the substrate being one of a drawer and a belt further limits the structure of the claimed combination.

Claims Rejection - 35 U.S.C. 102(b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Currier (U.S. Patent No. 3,981,471).

Currier's holding apparatus (11) shows all the claimed structure. The statement of intended use (i.e. for receiving at least one clipper) adds no structure to and is of no patentable import in the claimed holding apparatus.

3. Claims 1-5, 8-11, 16-19 and 21-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bestler (U.S. Patent No. 1,788,009).

Bestler's portable clipper holding apparatus comprises a first arch (5), a second arch (9), a first wall (6) connecting the first arch (5) and the second arch (9), and a

second wall (4) attached to a top of the first arch (5) forming a bottom opening for engaging a substrate (A), and at least one hook (9) forming the second arch (9). A clipper (E) has a closed loop (18) adapted to be received by the second arch (9). The second arch (4) is fully capable of engaging a substrate such as a belt as claimed.

In another interpretation, the first wall is (4) and the second wall is (6). The first wall (4) and the second wall (6) separated by a top forming the first arch (5), wherein a bottom portion of the first wall (4) extends below a bottom edge of the second wall (6). The bottom portion of the first wall (4) extends beyond the bottom edge of the second wall (6) by at least one half of the height of the second wall (6, see Fig.2). The first wall (4) provides sufficient space between the bottom portion of the first wall (4) and the top (5) to define a strike plate (B) as claimed.

4. Claims 1, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Asaro et al. (U.S. Patent No. 5,014,948).

The holding apparatus (Fig.4) of Asaro et al. shows all the claimed structure. It is held the holding apparatus of Asaro et al. is fully capable of engaging a drawer and receiving a clipper as claimed.

Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Asaro et al. (U.S. Patent No. 5,014,948) in view of Rioux, Jr. (U.S. Patent No. 5,222,132).

The holding apparatus (Fig.4) of Asaro et al. shows all the claimed structure except each hook lacks a supporting gusset.

Rioux, Jr. shows (Fig.2) a hook (30) provided with a supporting gusset (31).

It would have been obvious to one skilled in the art to modify Asaro et al. by providing each hook (16) with a supporting gusset to strengthen the hook as taught by Rioux, Jr.

Indication of Allowable Subject Matter

1. Claims 6, 7, 20, 24 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
2. Claims 14 and 15 are allowed.
3. Claims 26 and 27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Prior Art Citations


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Neel, Bree, Lee, Davis, DuPont et al., David and Swiss Patent '053 are cited as art of interest.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 571-273-4511 for proposed amendments.

H Payer
January 6, 2005



Hwei-Siu Payer
Primary Examiner